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SENATE BILL 5123

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Frockt, Kohl-Welles, Mullet, Pedersen, Jayapal,  
Darneille, McCoy, Conway, and Keiser

Read first time 01/14/15.            Referred to Committee on Financial  
Institutions & Insurance.

1            AN ACT Relating to tenant screening; amending RCW 59.18.257;  
2 reenacting and amending RCW 59.18.030; creating a new section; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    The legislature finds that residential  
6 landlords frequently use tenant screening reports in evaluating and  
7 selecting tenants for their rental properties. The costs of tenant  
8 screening are passed on to applicants in the form of screening fees  
9 that applicants pay with each application for housing, although  
10 successive reports contain largely the same information. Applicants  
11 may make multiple applications for housing to secure a place to live,  
12 significantly increasing their financial burden. The high and  
13 repeated cost of tenant screening reports are a barrier to housing  
14 for all applicants, especially applicants with low or fixed incomes.  
15 The legislature recognizes the importance of landlords receiving  
16 current and thorough information on prospective tenants, including  
17 the necessary information to determine if that applicant would make a  
18 suitable renter. When an applicant can provide a prospective landlord  
19 a comprehensive tenant screening report produced within the last  
20 thirty days, this significantly reduces an applicant's cost while  
21 also providing landlords with the information they need. Therefore,

1 the legislature finds and declares comprehensive tenant screening  
2 reports are a necessary and fair solution for both applicants and  
3 landlords.

4 **Sec. 2.** RCW 59.18.030 and 2012 c 41 s 2 are each reenacted and  
5 amended to read as follows:

6 As used in this chapter:

7 (1) "Certificate of inspection" means an unsworn statement,  
8 declaration, verification, or certificate made in accordance with the  
9 requirements of RCW 9A.72.085 by a qualified inspector that states  
10 that the landlord has not failed to fulfill any substantial  
11 obligation imposed under RCW 59.18.060 that endangers or impairs the  
12 health or safety of a tenant, including (a) structural members that  
13 are of insufficient size or strength to carry imposed loads with  
14 safety, (b) exposure of the occupants to the weather, (c) plumbing  
15 and sanitation defects that directly expose the occupants to the risk  
16 of illness or injury, (d) not providing facilities adequate to supply  
17 heat and water and hot water as reasonably required by the tenant,  
18 (e) providing heating or ventilation systems that are not functional  
19 or are hazardous, (f) defective, hazardous, or missing electrical  
20 wiring or electrical service, (g) defective or hazardous exits that  
21 increase the risk of injury to occupants, and (h) conditions that  
22 increase the risk of fire.

23 (2) "Distressed home" has the same meaning as in RCW 61.34.020.

24 (3) "Distressed home conveyance" has the same meaning as in RCW  
25 61.34.020.

26 (4) "Distressed home purchaser" has the same meaning as in RCW  
27 61.34.020.

28 (5) "Dwelling unit" is a structure or that part of a structure  
29 which is used as a home, residence, or sleeping place by one person  
30 or by two or more persons maintaining a common household, including  
31 but not limited to single-family residences and units of multiplexes,  
32 apartment buildings, and mobile homes.

33 (6) "Gang" means a group that: (a) Consists of three or more  
34 persons; (b) has identifiable leadership or an identifiable name,  
35 sign, or symbol; and (c) on an ongoing basis, regularly conspires and  
36 acts in concert mainly for criminal purposes.

37 (7) "Gang-related activity" means any activity that occurs within  
38 the gang or advances a gang purpose.

39 (8) "In danger of foreclosure" means any of the following:

1 (a) The homeowner has defaulted on the mortgage and, under the  
2 terms of the mortgage, the mortgagee has the right to accelerate full  
3 payment of the mortgage and repossess, sell, or cause to be sold the  
4 property;

5 (b) The homeowner is at least thirty days delinquent on any loan  
6 that is secured by the property; or

7 (c) The homeowner has a good faith belief that he or she is  
8 likely to default on the mortgage within the upcoming four months due  
9 to a lack of funds, and the homeowner has reported this belief to:

10 (i) The mortgagee;

11 (ii) A person licensed or required to be licensed under chapter  
12 19.134 RCW;

13 (iii) A person licensed or required to be licensed under chapter  
14 19.146 RCW;

15 (iv) A person licensed or required to be licensed under chapter  
16 18.85 RCW;

17 (v) An attorney-at-law;

18 (vi) A mortgage counselor or other credit counselor licensed or  
19 certified by any federal, state, or local agency; or

20 (vii) Any other party to a distressed property conveyance.

21 (9) "Landlord" means the owner, lessor, or sublessor of the  
22 dwelling unit or the property of which it is a part, and in addition  
23 means any person designated as representative of the owner, lessor,  
24 or sublessor including, but not limited to, an agent, a resident  
25 manager, or a designated property manager.

26 (10) "Mortgage" is used in the general sense and includes all  
27 instruments, including deeds of trust, that are used to secure an  
28 obligation by an interest in real property.

29 (11) "Owner" means one or more persons, jointly or severally, in  
30 whom is vested:

31 (a) All or any part of the legal title to property; or

32 (b) All or part of the beneficial ownership, and a right to  
33 present use and enjoyment of the property.

34 (12) "Person" means an individual, group of individuals,  
35 corporation, government, or governmental agency, business trust,  
36 estate, trust, partnership, or association, two or more persons  
37 having a joint or common interest, or any other legal or commercial  
38 entity.

1 (13) "Premises" means a dwelling unit, appurtenances thereto,  
2 grounds, and facilities held out for the use of tenants generally and  
3 any other area or facility which is held out for use by the tenant.

4 (14) "Property" or "rental property" means all dwelling units on  
5 a contiguous quantity of land managed by the same landlord as a  
6 single, rental complex.

7 (15) "Prospective landlord" means a landlord or a person who  
8 advertises, solicits, offers, or otherwise holds a dwelling unit out  
9 as available for rent.

10 (16) "Prospective tenant" means a tenant or a person who has  
11 applied for residential housing that is governed under this chapter.

12 (17) "Qualified inspector" means a United States department of  
13 housing and urban development certified inspector; a Washington state  
14 licensed home inspector; an American society of home inspectors  
15 certified inspector; a private inspector certified by the national  
16 association of housing and redevelopment officials, the American  
17 association of code enforcement, or other comparable professional  
18 association as approved by the local municipality; a municipal code  
19 enforcement officer; a Washington licensed structural engineer; or a  
20 Washington licensed architect.

21 (18) "Reasonable attorneys' fees," where authorized in this  
22 chapter, means an amount to be determined including the following  
23 factors: The time and labor required, the novelty and difficulty of  
24 the questions involved, the skill requisite to perform the legal  
25 service properly, the fee customarily charged in the locality for  
26 similar legal services, the amount involved and the results obtained,  
27 and the experience, reputation and ability of the lawyer or lawyers  
28 performing the services.

29 (19) "Rental agreement" means all agreements which establish or  
30 modify the terms, conditions, rules, regulations, or any other  
31 provisions concerning the use and occupancy of a dwelling unit.

32 (20) A "single-family residence" is a structure maintained and  
33 used as a single dwelling unit. Notwithstanding that a dwelling unit  
34 shares one or more walls with another dwelling unit, it shall be  
35 deemed a single-family residence if it has direct access to a street  
36 and shares neither heating facilities nor hot water equipment, nor  
37 any other essential facility or service, with any other dwelling  
38 unit.

1 (21) A "tenant" is any person who is entitled to occupy a  
2 dwelling unit primarily for living or dwelling purposes under a  
3 rental agreement.

4 (22) "Tenant screening" means using a consumer report or other  
5 information about a prospective tenant in deciding whether to make or  
6 accept an offer for residential rental property to or from a  
7 prospective tenant.

8 (23) "Tenant screening report" means a consumer report as defined  
9 in RCW 19.182.010 and any other information collected by a tenant  
10 screening service. A tenant screening report must include tenant  
11 screening service contact information in or on the report.

12 (24) "Comprehensive screening report" means a tenant screening  
13 report that contains all of the following: (a) A consumer report  
14 concerning the prospective tenant prepared by a consumer reporting  
15 agency that compiles and maintains files on consumers on a nationwide  
16 basis, as defined in 15 U.S.C. Sec. 1681A(p); (b) a consumer report  
17 that includes consumer reporting agency contact information in or on  
18 the report from which a prospective landlord may obtain, at no  
19 charge, requested verifications of the prospective tenant's name and  
20 the most recent screening date; (c) a report containing the  
21 prospective tenant's criminal history and a sex offender search; (d)  
22 a report containing the prospective tenant's eviction history; (e) a  
23 report containing the prospective tenant's employment verification;  
24 and (f) a report containing the prospective tenant's previous address  
25 history, if not included in the report from a consumer reporting  
26 agency that compiles and maintains files on consumers on a nationwide  
27 basis as described in (a) of this subsection.

28 (25) "Criminal history" means a report containing or summarizing  
29 the contents of any records of the prospective tenant's arrest,  
30 indictment, criminal conviction, or other adjudication of a crime,  
31 including registration or duty to register as a sex offender with any  
32 state, if any, obtained after a search for such records in every  
33 state where the prospective tenant has reported living in the seven  
34 years preceding the report date.

35 (26) "Eviction history" means a report containing or summarizing  
36 the contents of any records of eviction suits or judicial foreclosure  
37 actions concerning the prospective tenant that are reportable in  
38 accordance with state law, are lawful for landlords to consider, and  
39 are obtained after a search for such records in every state where the

1 prospective tenant has reported living in the seven years preceding  
2 the report date.

3 **Sec. 3.** RCW 59.18.257 and 2012 c 41 s 3 are each amended to read  
4 as follows:

5 (1)(a) Prior to obtaining any information about a prospective  
6 tenant, the prospective landlord shall first notify the prospective  
7 tenant in writing, or by posting, of the following:

8 (i) What types of information will be accessed to conduct the  
9 tenant screening;

10 (ii) What criteria may result in denial of the application; and

11 (iii) If a consumer report is used, the name and address of the  
12 consumer reporting agency and the prospective tenant's rights to  
13 obtain a free copy of the consumer report in the event of a denial or  
14 other adverse action, and to dispute the accuracy of information  
15 appearing in the consumer report.

16 (b)(i) The landlord may charge a prospective tenant for costs  
17 incurred in obtaining a tenant screening report only if the  
18 prospective landlord provides the information as required in (a) of  
19 this subsection, unless a comprehensive tenant screening report  
20 regarding the prospective tenant, prepared within thirty days of the  
21 application date, is made available to the prospective landlord by a  
22 consumer reporting agency. If a consumer reporting agency provides  
23 access to a comprehensive tenant screening report, a prospective  
24 landlord may still obtain another tenant screening report but may not  
25 charge the prospective tenant for the subsequent report. A  
26 prospective landlord shall not treat a prospective tenant for whom a  
27 comprehensive tenant screening report is available any less favorably  
28 solely because a consumer reporting agency provides access to a  
29 comprehensive screening report.

30 (ii) If a prospective landlord conducts his or her own screening  
31 of tenants, the prospective landlord may charge his or her actual  
32 costs in obtaining the background information only if the prospective  
33 landlord provides the information as required in (a) of this  
34 subsection. The amount charged may not exceed the customary costs  
35 charged by a screening service in the general area. The prospective  
36 landlord's actual costs include costs incurred for long distance  
37 phone calls and for time spent calling landlords, employers, and  
38 financial institutions.

1 (c) If a prospective landlord takes an adverse action, the  
2 prospective landlord shall provide a written notice of the adverse  
3 action to the prospective tenant that states the reasons for the  
4 adverse action. The adverse action notice must contain the following  
5 information in a substantially similar format, including additional  
6 information as may be required under chapter 19.182 RCW:

7 "ADVERSE ACTION NOTICE

8 Name

9 Address

10 City/State/Zip Code

11 This notice is to inform you that your application has been:

12 ..... Rejected

13 ..... Approved with conditions:

14 ..... Residency requires an increased deposit

15 ..... Residency requires a qualified guarantor

16 ..... Residency requires last month's rent

17 ..... Residency requires an increased monthly rent of \$.....

18 ..... Other:

19 Adverse action on your application was based on the following:

20 ..... Information contained in a consumer report (The prospective  
21 landlord must include the name, address, and phone number of the  
22 consumer reporting agency that furnished the consumer report that  
23 contributed to the adverse action.)

24 ..... The consumer credit report did not contain sufficient  
25 information

26 ..... Information received from previous rental history or reference

27 ..... Information received in a criminal record

28 ..... Information received in a civil record

29 ..... Information received from an employment verification

30 Dated this ..... day of ....., 20....

31 Agent/Owner Signature"

32 (2) Any landlord or prospective landlord who violates this  
33 section may be liable to the prospective tenant for an amount not to  
34 exceed one hundred dollars. The prevailing party may also recover  
35 court costs and reasonable attorneys' fees.

36 ~~(3) ((A stakeholder work group comprised of landlords, tenant  
37 advocates, and representatives of consumer reporting and tenant  
38 screening companies shall convene for the purposes of addressing the~~

1 ~~issues of tenant screening including, but not limited to: A tenant's~~  
2 ~~cost of obtaining a tenant screening report; the portability of~~  
3 ~~tenant screening reports; criteria used to evaluate a prospective~~  
4 ~~tenant's background, including which court records may or may not be~~  
5 ~~considered; and the regulation of tenant screening services. Specific~~  
6 ~~recommendations on these issues are due to the legislature by~~  
7 ~~December 1, 2012.~~

8 (4)) This section does not limit a prospective tenant's rights  
9 or the duties of a screening service as otherwise provided in chapter  
10 19.182 RCW.

11 NEW SECTION. **Sec. 4.** This act takes effect November 1, 2016.

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